

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION**

**CHARLES HOLLAND D/B/A
WELCOME INN,**

Plaintiff,

v.

**ATLANTIC CASUALTY INSURANCE
COMPANY,**

Defendant.

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CIVIL ACTION NO. 2:19-cv-00075

**DEFENDANT ATLANTIC CASUALTY INSURANCE COMPANY’S
NOTICE OF REMOVAL**

TO THE HONORABLE COURT:

Defendant, Atlantic Casualty Insurance Company, files this Notice of Removal per 28 U.S.C. §1441, *et seq.*, and respectfully shows the following to the Court:

**I.
INTRODUCTION**

1. This removed action is an insurance-coverage dispute arising from a civil suit filed by Charles Holland d/b/a Welcome Inn against Atlantic Casualty Insurance Company in the 293rd District Court, Maverick County, Texas, which is styled *Charles Holland d/b/a Welcome Inn v. Atlantic Casualty Insurance Company*, Cause No. 19-09-37886-MCV (“State Court Lawsuit”). Atlantic Casualty issued an insurance policy to Holland. Per the terms of that policy, Atlantic Casualty properly denied coverage for a first-party claim submitted by Holland regarding alleged damage to the premises at 2150 Del Rio Boulevard, Eagle Pass, Texas 78852 arising out of a storm that occurred on or about December 13, 2018 (“Loss”).

2. Holland filed the State Court Lawsuit on September 13, 2019. Atlantic Casualty was served via certified mail, return receipt requested, on October 21, 2019. Atlantic Casualty timely files this Notice of Removal within 30 days from the date that it received such service. 28 U.S.C. § 1446(b). Venue is proper in this district and division under 28 U.S.C. §1441(a) because the State Court Lawsuit is pending within this district and division.

3. This action is removable because there is complete diversity of citizenship between the Holland and Atlantic and the alleged damages exceed \$75,000.00, exclusive of interest and costs. Hence, the Court has subject-matter jurisdiction to decide this case under 28 U.S.C. § 1332.

4. Atlantic Casualty will promptly file a copy of this Notice of Removal with the clerk of the 293rd District Court, Maverick County, Texas, where the State Court Lawsuit is pending.

II. **FACTUAL BACKGROUND**

5. Atlantic Casualty issued Commercial Property Policy P226000033-1 to “Charles Holland d/b/a Welcome Inn,” which was in effect from November 1, 2018, to November 1, 2019 (“Policy”). (Pl. Pet., Sec. V).

6. The Loss purportedly occurred on or about December 13, 2018.

7. Holland submitted a claim notice regarding the Loss to Atlantic Casualty on December 21, 2018.

8. On February 7, 2019, after investigating the Loss and Holland’s claimed damages, Atlantic Casualty properly denied payment for the Loss because the total damages did not exceed Holland’s deductible under the Policy.

III.
BASIS FOR REMOVAL

9. Because there is complete diversity of citizenship among Holland and Atlantic Casualty, removal is justified under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

A. The Parties' citizenship is completely diverse.

10. Holland, an individual, is domiciled in Maverick County, Texas, and a Texas citizen. Holland is not a North Carolina citizen.

11. Atlantic Casualty is an insurance company formed under North Carolina law that maintains its principal place of business in Goldsboro, North Carolina. Hence, Atlantic Casualty is a North Carolina citizen. 28 U.S.C. § 1332(c)(1). Atlantic Casualty is not a Texas citizen.

IV.
AMOUNT IN CONTROVERSY

12. In his state-court petition, Holland seeks monetary relief in excess of \$200,000 but not more than \$1,000,000.00. Holland has submitted repair estimates to Atlantic Casualty that value the Loss at \$578,391.02. Hence, the amount in controversy exceeds \$75,000, exclusive of interest and costs—the minimum amount for removal. 28 U.S.C. § 1332(a); *Horton v. Liberty Mut. Ins. Co.*, 367 U.S. 348, 353 (1961); *Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1995).

V.
NOTICE

13. The judge in the State Court Lawsuit has not yet signed any order. Per 28 U.S.C. §1446(a), the following documents are being filed simultaneously as exhibits to this Notice of Removal:

- (1) Index of documents being filed;
- (2) State court action docket sheet;

- (3) Each document filed in the state court action;
- (4) Civil cover sheet;
- (5) Supplemental civil cover sheet for cases removed from state court; and
- (6) Certificate of Interested Persons.

VI.
CONCLUSION AND PRAYER

Because the Parties' citizenship is complete diverse and the amount in controversy exceeds \$75,000, exclusive of interest and costs, Atlantic Casualty Insurance Company respectfully requests that this Court remove this action from the 293rd District Court, Maverick County, Texas, to the United States District Court for the Western District of Texas, Del Rio Division.

Respectfully submitted,

SAVRICK, SCHUMANN, JOHNSON,
MCGARR, KAMINSKI & SHIRLEY, L.L.P.

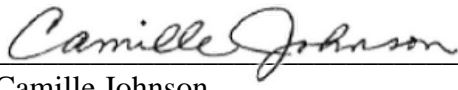
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***COUNSEL FOR DEFENDANT ATLANTIC
CASUALTY INSURANCE COMPANY***

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of November 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System, which will send notification of such filing to the following:

Marc K. Whyte
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San Antonio, Texas 78217
Counsel for Plaintiff



Camille Johnson